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March 8, 2022

BY ECF

Honorable Katherine P. Failla
United States District Judge
United States District Court
40 Foley Square
New York, New York 10007

MEMO ENDORSED

re: Dominguez v. City of New York, et al. 21-CV-2302 (KPF)

Dear Judge Failla,

My office represents plaintiff, Steven Dominguez, in this action, along with Bromberg Law Office, P.C.. In that capacity, I write in response to Defendants' motion for an extension of time to file their anticipated motion to dismiss. While Defendants included Plaintiff's objection in their letter motion, they did not advise Plaintiff of the footnote that they attached to Plaintiff's objection. As such, Plaintiff writes to clarify his objection and respond to the footnote.

First, while the Court issued a partial stay of discovery on January 14, 2022, that stay was limited. The Court stayed discovery only with respect to *Monell*, Plaintiff's medical records, and conducting depositions, but did not stay any other paper discovery. Furthermore, the stay of discovery would end should Defendants not file a motion to dismiss by the March 11, 2022 deadline.

Second, while the parties agreed to extend the deadlines to respond to discovery requests until March 18, 2022, Plaintiff has asked Defendants to correct their deficient Initial Disclosures, which included no documents and no contact information for witnesses. Defendants have still not responded to this request.

While Defendants have switched attorneys in this matter, the prior attorney, from the same office, had first requested to brief this motion to dismiss back in July 2021, and had had an entire month to do so prior to the case being reassigned. As the anticipated motion is only a partial motion to dismiss, the new attorney does not need to review the entire case file, but rather the pleadings and the draft of the motion to dismiss so that he could complete the motion that presumably was mostly finished. If however, Defendants have not been drafting the motion this entire time, that is not a basis to extend their deadline. As such, Plaintiff opposes any extension of time for Defendants' anticipated partial motion to dismiss.

Plaintiff thanks the court for its consideration herein.

Respectfully submitted,

/s/ Evan Brustein

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cc: All parties (via ECF)

The Court is in receipt of Defendants' March 8, 2022 letter (Dkt. #44) and Plaintiff's above responsive letter. The Court shares Plaintiff's view that Defendants have had ample time to prepare their motion to dismiss. Nonetheless, given that Plaintiff has not identified any prejudice that would result from an extension of the briefing schedule and given the recent substitution of defense counsel, the Court GRANTS Defendants' request for an extension of the briefing schedule.

Defendants shall file their opening motion and supporting papers on or before **April 1, 2022**. Plaintiff shall file his opposition brief on or before **May 13, 2022**. Defendants shall file their reply, if any, on or before **May 26, 2022**. No further extensions will be granted.

The Clerk of Court is directed to terminate the motion at docket entry 44.

Dated: March 9, 2022
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE